

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0134P**

**Use Tax**

**January 1996 through May 1997**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is an international specialty retailer with stores in the United States and several international locations. Taxpayer has several stores in Indiana. At audit, it was determined that the taxpayer failed to self assess use tax in one year of the audit and remitted less than 75% in the following five months. Taxpayer had a prior audit with the same issues completed on May 20, 1992.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that it failed to remit use tax on clearly taxable purchases and fixed assets.

Taxpayer states that it had an inability to accrue tax properly on fixed assets and store expenditures and has implemented a model which accrues tax on these types of purchases in June

1999. Taxpayer requests a penalty waiver based upon the above statement along with its excellent filing history.

A review of the audit indicates the taxpayer had no use tax accrual system in place for one year of the audit and remitted approximately 75% in the following five months. Taxpayer underwent a prior audit with the same issues. Taxpayer did not provide reasonable cause to allow a waiver of the penalty.

**FINDING**

Taxpayer's protest is denied.

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